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Silz v. Hesterberg, 211 U. S. 31; *Murphy v. California*, 225 U. S. 623. The step taken by the court in its decision in the instant case was to be anticipated, in view of the recent decisions interpreting the WEBB-KENYON ACT.

ESPIONAGE ACT—POST OFFICE—NON-MAILABLE MATTER—SEDITIOUS PUBLICATIONS.—On an appeal from an interlocutory order granting a temporary injunction commanding the defendant, postmaster of the city of New York, to transmit the plaintiff's publication, "The Masses", through the mails, *held*, that it could not be said that the defendant was not warranted in excluding the journal under the authority of the ESPIONAGE ACT OF JUNE 15, 1917. *Masses Pub. Co. v. Patten*, 246 Fed. 24 (Cir. Ct. App., Nov. 2, 1917).

This decision of the Circuit Court of Appeals has the effect of reversing the decision of the District Court, granting a preliminary injunction, 16 Mich. L. Rev. 131. The court in the instant case held the act to be constitutional, a proper exercise of the police power of the government; that, by it, Congress authorized and directed the Postmaster General not to transmit certain matter by mail, and to determine whether a particular publication is non-mailable under the terms of the law, thus requiring him to use judgment and discretion in so determining, and making his decision conclusive before the courts, save where there appears to be a clear abuse of discretion; and that no such abuse of discretion appeared in the instant case. The Circuit Court expressly repudiated the decision of the District Court, to the effect that any action other than a *direct* advocacy of resistance to the existing law is not a violation of the ESPIONAGE ACT, holding that "if the natural and reasonable effect of what is said is to encourage resistance to a law, and the words are used in an endeavor to persuade resistance, it is immaterial that the duty to resist is not mentioned, or the interests of the persons addressed in resistance are not suggested".

EVIDENCE—COMPETENCY OF WITNESSES—CRIMINAL TRIALS IN FEDERAL COURTS.—Upon the trial of defendants in the United States District Court for the Eastern District of New York for conspiring to buy and receive certain checks and letters stolen from duly authorized depositories of United States mail matter, objection was made to the competency of a witness for the Government who had been jointly indicted with defendants. The objection was based on the ground that this witness had previously pleaded guilty to the crime of forgery in one of the New York state courts and had served a sentence therefor, and, by the common law as administered in New York at the time of the enactment of the Federal Judiciary Act, these facts would have rendered the witness incompetent. The objection was overruled and the witness allowed to testify. *Held*, this ruling was correct. *Rosen et al. v. United States* (1918), 38 Sup. Ct. 148.

In *United States v. Reid et al.*, 12 How. 361, a case which came up from a Federal court in Virginia and upon which appellants in the instant case rely, the defendant attempted to call as a witness one who had been jointly indicted with him for a murder committed on the high seas. The court, in rejecting the testimony, held that the rules of evidence in force in the respective states when the United States Judiciary Act was passed were to gov-